REMARKS/ARGUMENTS

Claims 29-43 remain in the application. Claims 1-26 were cancelled in a prior response.

I. REJECTIONS UNDER 35 U.S.C. §112

Claim 29 was rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. The applicant has amended claim 29 to change the term "formula" to "ratio." The specification provides a description of points for time periods of work by the employees, the conversion of points to shares of equity. (Application, page 12, second paragraph, page 18, and third paragraph, page 21, second paragraph) For these reasons, the applicant submits that claim 29 as amended complies with the requirements of 35 U.S.C. §112, first paragraph.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 27, 28, 34 and 39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fredregill (WO 01/86545) in view of Bachman (US 6,895,386). The Examiner admits that Fredregill fails to teach the limitation of providing a formula for establishing a unit of business equity for a time period of work by the employee. The Examiner argues that Bachman discloses a system where employees use incentive points to purchase equity shares, which allows said employees to invest in a particular company and build loyalty towards the company while acquiring an asset that can be liquidated should the employee desire. The Examiner further argues that it would have been obvious to a person of ordinary skill in the art at the time the application was made to know that Fredregill's employee's incentive system would add the Bachman's stock compensation system in order to allow employees to convert the reward points earned from work performance and purchases, as taught by Fredregill to company equity shares as taught by Bachman in order to increase the loyalty of said employees towards a company. (Office Action page 4.)

In contrast to a formula for establishing a unit of business equity for a time period of work by the employee, Bachman discloses awards incentive points which are redeemable for stock in exchange for purchases made with a credit card. (Bachman, Col. 4, lines 61-67.) The

applicant submits that there is a substantial difference between a formula for establishing a unit of business equity for a time period of work by the employee an employer based upon employee productivity and stock provided by a co-branded corporation based upon purchases made with a credit card. In particular, the formula for equity based upon credit purchases will typically be a very small percentage of the purchase price. In contrast, equity based upon a time period of work should be much higher. Thus, there is a substantial difference between a formula based upon work and a formula based upon credit card purchases. For these reasons, the applicant submits that the cited prior art fails to disclose the limitations, providing a formula for establishing a unit of business equity for a time period of work by the employee and applying the ratio to convert the point value assigned to the employee into one or more units of business equity of the employer of the employee.

Claim 27 includes the limitations of setting a work shift requirement and indentifying employee productivity in excess of the work shift requirement. The Examiner argues that this limitation is disclosed by Fredrigill. The applicant respectfully disagrees with the Examiner. Fredregill discloses that rewards in the form of points are given for "high performance, completion of online or offline training courses, completion of a specific work goal, employee referrals, exemplary attendance, or a special effort expended to solve a problem or acquire a new client." (Fredregill, page 17, lines 3-6.) The applicant submits that the term "work shift" has the well known definition as a work system in which multiple "work shifts" perform work throughout a day. The work system can include three 8 hour shifts. A 1st shift can run from 6 AM to 2 PM, a 2nd shift can run from 2 PM to 10 PM and a 3rd shift can run from 10 PM to 6 AM. The applicant submits that this limitation is not disclosed by Fredrigill. The applicant submits that a "service time" disclosed by Fredrigill is the cumulative time of employment rather than a work shift that is part of a work day. There is a substantial difference between a cumulative service time that takes into consideration the leave of absence when calculating a service anniversary. (Fredrigill, page 17, lines 30-32.) Thus, the applicant submits that Fredrigill does not disclose the limitation of setting a work shift. Since, Fredrigill does not disclose setting a work shift, the applicant submits that Fredrigill does not disclose the claim limitation of "identifying employee productivity in excess of the work shift requirement."

For these reasons, the applicant submits that claim 27 would not have been invalid as obvious under 35 U.S.C. §103(a) over Fredregill in view of Bachman. Claim 28 depends from claim 27 and for the same reasons, the applicant submits that claim 28 would not have been invalid as obvious under 35 U.S.C. §103(a) over Fredregill in view of Bachman

Claims 34 and 39 are independent claims that include the limitations "providing a ratio for establishing a unit of business equity for the labor points awarded" and "converting a portion of the labor points awarded ... into the company stock shares according to the ratio." Claims 34 and 39 also include the limitation that the employee obtains stock shares in the employer company. These limitations are not disclosed or obvious in view of the cited prior art. For the same reasons discussed above in claim 27, the applicant submits that the cited prior art does not disclose these limitations. Claims 34 and 39 would not have been invalid as obvious under 35 U.S.C. §103(a) as over Fredregill in view of Bachman.

Claim 29 was rejected under 35 U.S.C. §103(a) as being unpatentable over Fredregill in view of Bachman and further in view of US Patent Publication No. 2001/0054006 to Lee. As discussed above in claim 27, the applicant submits that the combination of Fredregill, Bachman and Lee do not disclose the limitations of "a first ratio for establishing units of business equity for a time period of work by the employees" or "converting some of the labor points into employer company stock shares according to the first ratio." For these reasons, the applicant submits that claim 29 would not have been invalid as obvious over Fredregill in view of Bachman and Lee.

Claim 30 depends from claim 29 and was rejected under 35 U.S.C. §103(a) as being unpatentable over Fredregill in view of Bachman and Lee and further in view of US Patent Publication No. 2004/0193489 to Boyd. The applicant submits that Boyd does not disclose a first ratio for establishing units of business equity for a time period of work by the employees or converting some of the labor points into employer company stock shares according to the first ratio. For these reason and the reasons discussed above in claim 29, the applicant submits that

claim 30 would not have been invalid as obvious over Fredregill in view of Bachman, Lee and Boyd.

Claims 31-33, were rejected under 35 U.S.C. §103(a) as being unpatentable over Fredregill in view of Bachman, Lee and further in view of US Patent No. 6,587,831 to O'Brien. Claims 31-33 depend from claim 29. The applicant submits that the combination of Fredregill, Bachman Lee and O'Brien do not disclose the limitations of "a first ratio for establishing units of business equity for a time period of work by the employees" or "converting some of the labor points into employer company stock shares according to the first ratio." Thus, for the same reasons discussed above in claim 29, the applicant submits that the cited prior art does not disclose or suggest all limitations of claims 31-33.

Claims 35 and 40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fredregill in view of Bachman and Boyd. Claim 35 depends from claim 34 and claim 40 depends from claim 39. The applicant submits that the limitations "providing a ratio for establishing a unit of business equity for the labor points awarded" and "converting a portion of the labor points awarded ... into the company stock shares according to the ratio" are not disclosed by Fredregill, Bachman or Boyd. For the same reasons discussed above in claims 34 and 39, the applicant submits that claims 35 and 40 would not have been invalid as obvious under 35 U.S.C. §103(a) as over Fredregill in view of Bachman and Boyd.

Claims 36-38 and 41-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fredregill in view of Bachman and further in view of O'Brien. Claims 36-38 depend from claim 34 and for the same reasons discussed above with respect to claim 34, the applicant submits that claims 36-38 would not have been invalid as obvious under 35 U.S.C. §103(a) as over Fredregill in view of Bachman and O'Brien. Claims 41-43 depend from claim 40. For the same reasons discussed above with respect to claim 40, the applicant submits that claims 41-43 would not have been invalid as obvious under 35 U.S.C. §103(a) as over Fredregill in view of Bachman and O'Brien.

III. CONCLUSION

The applicant respectfully requests that a timely Notice of Allowance be issued in this case. The Examiner is encouraged to call the undersigned if there are any questions or comments at (415) 705-6377. The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication or credit any overpayment to Deposit Account No. 04-0822.

Respectfully submitted,

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By: 
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